


**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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|---|----------------------------|---|
| <b>WESTPORT INSURANCE<br/>CORPORATION</b> | :<br>:<br>:<br>:<br>:<br>: | <b>CIVIL ACTION</b><br><br><b>NO. 20-1372</b> |
| <b>v.</b>                                 |                            |   |
| <b>FRANK M. MCCLELLAN, et al.</b>         |                            |   |

**ORDER**

**AND NOW**, this 31<sup>st</sup> day of July 2020, upon considering Plaintiff's Motion for judgment on the pleadings as to both its Complaint and Defendants McClellan's and Johnson's counterclaim (ECF Doc. No. 38), Defendant McClellan's Response (ECF Doc. No. 40), Plaintiff's Reply (ECF Doc. No. 43), and following oral argument, it is **ORDERED** Plaintiff's Motion (ECF Doc. No. 38) is **GRANTED in part** and **DENIED in part**:

1. Plaintiff's Motion for a declaratory judgment on its Complaint is **DENIED**;
2. Plaintiff's Motion for judgment as to Defendants' counterclaims is:
  - a. **GRANTED** without prejudice as to Defendant Johnson's counterclaim for bad faith and Defendant McClellan's counterclaim based on alleged bad faith relating to the 2017 legal malpractice action;
  - b. **DENIED** as to Defendant Johnson's and Defendant McClellan's counterclaim based on estoppel/waiver and Defendant McClellan's counterclaim for bad faith as it relates to the 2019 disgorgement action.

  
**KEARNEY, J.**